

111TH CONGRESS  
1ST SESSION

# H. R. 3115

To amend the Internal Revenue Code of 1986 to provide credits to small businesses and their employees for health insurance coverage.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 7, 2009

Mr. HODES (for himself and Ms. SHEA-PORTER) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide credits to small businesses and their employees for health insurance coverage.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Small Business Health  
5       Care Affordability Act of 2009”.

6       **SEC. 2. SMALL EMPLOYERS BUSINESS CREDIT FOR PRO-**  
7       **VIDING EMPLOYEE HEALTH INSURANCE.**

8       (a) IN GENERAL.—Subpart D of part IV of sub-  
9       chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to business related credits) is amended by  
2 adding at the end the following new section:

3 **“SEC. 45R. EMPLOYEE HEALTH INSURANCE COVERAGE BY**  
4 **SMALL EMPLOYERS.**

5 “(a) GENERAL RULE.—For purposes of section 38,  
6 in the case of an eligible small employer, the health insur-  
7 ance credit determined under this section for any taxable  
8 year is an amount equal to the aggregate amount paid  
9 or incurred by the taxpayer for the taxable year for quali-  
10 fied health insurance for employees of the taxpayer.

11 “(b) DOLLAR LIMITATION.—

12 “(1) ANNUAL LIMITATION.—The amount of the  
13 credit determined under this section with respect to  
14 an employee for any taxable year shall not exceed  
15 the sum of the amounts paid by the taxpayer for  
16 qualified health insurance for such employee for cov-  
17 erage months of such employee during the taxable  
18 year.

19 “(2) MONTHLY LIMITATION.—For purposes of  
20 paragraph (1), amounts paid by the taxpayer for  
21 qualified health insurance for an employee for any  
22 coverage month of such individual during the taxable  
23 year shall not be taken into account to the extent  
24 such amounts exceed  $\frac{1}{12}$  of the following:

1           “(A) \$1,000 in the case of coverage of the  
2           employee.

3           “(B) \$1,750 in the case of two person cov-  
4           erage.

5           “(C) \$2,250 in the case of family coverage.

6           “(c) ELIGIBLE SMALL EMPLOYER.—For purposes of  
7           this section—

8           “(1) IN GENERAL.—The term ‘eligible small  
9           employer’ means, with respect to any taxable year,  
10          any employer who employed an average of 50 or  
11          fewer employees on business days during either of  
12          the 2 preceding taxable years. For purposes of the  
13          preceding sentence, a preceding taxable year may be  
14          taken into account only if the employer was in exist-  
15          ence throughout such year.

16          “(2) EMPLOYERS NOT IN EXISTENCE IN PRE-  
17          CEDING YEAR.—In the case of an employer which  
18          was not in existence throughout the 1st preceding  
19          taxable year, the determination under subparagraph  
20          (A) shall be based on the average number of employ-  
21          ees that it is reasonably expected such employer will  
22          employ on business days in the current taxable year.

23          “(3) CERTAIN GROWING EMPLOYERS RETAIN  
24          TREATMENT AS SMALL EMPLOYER.—The term

1       ‘small employer’ includes, with respect to any cal-  
2       endar year, any employer if—

3               “(A) such employer met the requirement of  
4       paragraph (1) (determined without regard to  
5       paragraph (2)) for any preceding calendar year  
6       after the date of the enactment of this section,

7               “(B) such employer provided qualified  
8       health insurance for that year and each subse-  
9       quent year thereafter, and

10              “(C) such employer employed an average  
11       of 200 or fewer employees on business days  
12       during each preceding calendar year after the  
13       date of the enactment of this section.

14       “(4) SPECIAL RULES.—

15              “(A) CONTROLLED GROUPS.—For pur-  
16       poses of this subsection, all persons treated as  
17       a single employer under subsection (b), (c),  
18       (m), or (o) of section 414 shall be treated as 1  
19       employer.

20              “(B) PREDECESSORS.—Any reference in  
21       this paragraph to an employer shall include a  
22       reference to any predecessor of such employer.

23       “(d) COVERAGE MONTH.—For purposes of this sec-  
24       tion—

1           “(1) IN GENERAL.—The term ‘coverage month’  
2 means, with respect to an individual, any month if—

3           “(A) as of the first day of such month  
4 such individual is covered by qualified health in-  
5 surance, and

6           “(B) more than 50 percent of the premium  
7 for coverage under such insurance for such  
8 month is paid by the eligible small employer.

9           “(2) MEDICARE, MEDICAID, AND SCHIP.—The  
10 term ‘coverage month’ shall not include any month  
11 with respect to an individual if, as of the first day  
12 of such month, such individual—

13           “(A) is entitled to any benefits under part  
14 A of title XVIII of the Social Security Act or  
15 is enrolled under part B of such title, or

16           “(B) is enrolled in the program under title  
17 XIX or XXI of such Act (other than under sec-  
18 tion 1928 of such Act).

19           “(3) CERTAIN OTHER COVERAGE.—The term  
20 ‘coverage month’ shall not include any month with  
21 respect to an individual if, at any time during such  
22 month, any benefit is provided to such individual  
23 under chapter 55 of title 10, United States Code.

24           “(4) PRISONERS.—The term ‘coverage month’  
25 shall not include any month with respect to an indi-

1       vidual if, as of the first day of such month, such in-  
2       dividual is imprisoned under Federal, State, or local  
3       authority.

4           “(5) INSUFFICIENT PRESENCE IN UNITED  
5       STATES.—The term ‘coverage month’ shall not in-  
6       clude any month during a taxable year with respect  
7       to an individual if such individual is present in the  
8       United States on fewer than 183 days during such  
9       year (determined in accordance with section  
10      7701(b)(7)).

11      “(e) QUALIFIED HEALTH INSURANCE.—For pur-  
12     poses of this section—

13           “(1) IN GENERAL.—The term ‘qualified health  
14       insurance’ means health insurance coverage (as de-  
15       fined in section 9832(b)(1)) which—

16           “(A) is coverage under a group health plan  
17           (within the meaning of section 5000 without re-  
18           gard to section 5000(d)), and

19           “(B) meets the requirements of  
20       paragraph (2).

21       Such term does not include any insurance substan-  
22       tially all of the coverage of which is coverage de-  
23       scribed in section 223(c)(1)(B).

24           “(2) REQUIREMENTS.—The requirements of  
25       this paragraph are as follows:

1                   “(A) ADJUSTED COMMUNITY RATING OR  
 2                   RATING BANDS.—The coverage is provided in a  
 3                   State which—

4                   “(i) has a community rating structure  
 5                   that does not permit rating on gender,  
 6                   health status or claims experience, or

7                   “(ii) limits the permitted rate for any  
 8                   age group to be no more than 400 percent  
 9                   of the lowest rate for all adult age groups.

10                  “(B) BENEFITS.—The coverage is pro-  
 11                  vided under a plan that is at least an actuarial  
 12                  equivalent to the standard Blue Cross-Blue  
 13                  Shield plan offered under the Federal Employ-  
 14                  ees Health Benefits Program (FEHBP).”.

15                  (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-  
 16                  NESS CREDIT.—Section 38(b) of such Code (defining cur-  
 17                  rent year business credit) is amended by striking “plus”  
 18                  at the end of paragraph (34), by striking the period at  
 19                  the end of paragraph (35) and inserting “, plus”, and by  
 20                  adding at the end the following new paragraph:

21                  “(36) in the case of an eligible small employer  
 22                  (as defined in section 45R(c)), the health insurance  
 23                  credit determined under section 45R(a).”.

24                  (c) CONFORMING AMENDMENT.—The table of sec-  
 25                  tions for subpart D of part IV of subchapter A of chapter

1 1 of such Code is amended by adding at the end the fol-  
 2 lowing new item:

“Sec. 45R. Employee health insurance coverage by small employers.”.

3 (d) **EFFECTIVE DATE.**—The amendments made by  
 4 this section shall apply to taxable years beginning after  
 5 December 31, 2009.

6 **SEC. 3. REFUNDABLE SMALL BUSINESS EMPLOYEE**  
 7 **HEALTH PREMIUM CREDIT.**

8 (a) **ALLOWANCE OF CREDIT.**—

9 (1) **IN GENERAL.**—Subpart C of part IV of sub-  
 10 chapter A of chapter 1 of the Internal Revenue Code  
 11 of 1986 (relating to refundable personal credits) is  
 12 amended by inserting after section 36A the following  
 13 new section:

14 **“SEC. 36B. HEALTH INSURANCE COSTS FOR SMALL BUSI-**  
 15 **NESS EMPLOYEES.**

16 “(a) **ALLOWANCE OF CREDIT.**—In the case of an in-  
 17 dividual who is an eligible small business employee, there  
 18 shall be allowed as a credit against the tax imposed by  
 19 this subtitle for the taxable year an amount equal to the  
 20 amount paid by the taxpayer during such taxable year for  
 21 qualified health insurance for the taxpayer and the tax-  
 22 payer’s spouse and dependents.

23 “(b) **LIMITATION.**—The amount allowed as a credit  
 24 under subsection (a) to the taxpayer for the taxable year  
 25 shall not exceed the sum of the amounts paid by the tax-



1 payer for qualified health insurance for each individual re-  
2 ferred to in subsection (a) for coverage months of such  
3 individual during the taxable year.

4 “(c) ELIGIBLE SMALL BUSINESS EMPLOYEE.—For  
5 purposes of this section, an individual is an eligible small  
6 business employee for a coverage month if such individual  
7 is enrolled in qualified health insurance provided through  
8 an eligible small employer for which a credit is allowable  
9 under section 45R.

10 “(d) QUALIFIED HEALTH INSURANCE; COVERAGE  
11 MONTH.—For purposes of this section, the terms ‘quali-  
12 fied health insurance’ and ‘coverage month’ have the same  
13 meanings given such terms by section 45R.

14 “(e) SPECIAL RULES.—

15 “(1) COORDINATION WITH MEDICAL EXPENSE  
16 DEDUCTION.—The amount which would (but for this  
17 paragraph) be taken into account by the taxpayer  
18 under section 213 for the taxable year shall be re-  
19 duced by the credit (if any) allowed by this section  
20 to the taxpayer for such year.

21 “(2) COORDINATION WITH DEDUCTION FOR  
22 HEALTH INSURANCE COSTS OF SELF-EMPLOYED IN-  
23 DIVIDUALS.—No credit shall be allowable under this  
24 section for a taxable year if a deduction is allowed  
25 under section 162(l) for the taxable year.

1           “(3) COORDINATION WITH SECTION 35.—If a  
 2           taxpayer is eligible for the credit allowed under this  
 3           section and section 35 for any month, the taxpayer  
 4           shall elect which credit is to be allowed with respect  
 5           to such month.

6           “(f) REGULATIONS.—The Secretary shall prescribe  
 7           such regulations as may be necessary to carry out the pur-  
 8           poses of this section.”.

9           (b) CONFORMING AMENDMENTS.—

10           (1) Paragraph (2) of section 1324(b) of title  
 11           31, United States Code, is amended by inserting  
 12           “36B,” after “36A,”.

13           (2) The table of sections for subpart C of part  
 14           IV of subchapter A of chapter 1 of the Internal Rev-  
 15           enue Code of 1986 is amended by inserting after the  
 16           item relating to section 36A the following new item:

“Sec. 36B. Health insurance costs for small business employees.”.

17           (c) EFFECTIVE DATE.—The amendments made by  
 18           this section shall apply to taxable years beginning after  
 19           December 31, 2009.

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